

JOURNAL OF THE SENATE

NINETY-EIGHTH SESSION

NINETEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Tuesday, February 07, 2023

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Pastor John Fette, followed by the Pledge of Allegiance led by Senate pages Jorja Whempner and Annie Farley.

Roll Call: All members present.

APPROVAL OF THE JOURNAL

Mr. President:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the 18th day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Lee A. Schoenbeck, Chair

Which motion prevailed.

1

COMMUNICATIONS AND PETITIONS

2

May 12, 2022

3

The Honorable Larry Rhoden

4

President of the Senate

5

State Capitol

6

Pierre, SD 57501

7

Dear President and Members of the Senate:

8

Pursuant to the provisions of Chapter 24-13 of the South Dakota Codified Laws and subject to

9

your consent, I have the honor to inform you that I have appointed Jan Steele, of Deuel County,

10

Gary, South Dakota, to the Board of Pardons and Paroles.

11

This appointment is effective April 28, 2022, and shall continue until January 20, 2024.

12

13

14

Sincerely,

Kristi Noem

Governor

15

The President announced the referral of the appointment to the Committee on Judiciary.

16

June 10, 2022

17

The Honorable Larry Rhoden

18

President of the Senate

19

State Capitol

20

Pierre, SD 57501

21

Dear President and Members of the Senate:

22

Pursuant to the provisions of Chapter 1-16G of the South Dakota Codified Laws and subject to

23

your consent, I have the honor to inform you that I have reappointed Joy Nelson, of Codington

24

County, Watertown, South Dakota, to the Board of Economic Development.

25

This reappointment is effective April 28, 2022, and shall continue until April 14, 2026.

26

27

28

Sincerely,

Kristi Noem

Governor

29

The President announced the referral of the reappointment to the Committee on Commerce

30

and Energy.

1 June 10, 2022

2 The Honorable Larry Rhoden
3 President of the Senate
4 State Capitol
5 Pierre, SD 57501

6 Dear President and Members of the Senate:

7 Pursuant to the provisions of Chapter 1-16G of the South Dakota Codified Laws and subject to
8 your consent, I have the honor to inform you that I have reappointed James Yunag, of Minnehaha
9 County, Sioux Falls, South Dakota, to the Board of Economic Development.

10 This reappointment is effective April 28, 2022, and shall continue until April 14, 2026.

11 Sincerely,
12 Kristi Noem
13 Governor

14 The President announced the referral of the reappointment to the Committee on Commerce
15 and Energy.

16 June 10, 2022

17 The Honorable Larry Rhoden
18 President of the Senate
19 State Capitol
20 Pierre, SD 57501

21 Dear President and Members of the Senate:

22 Pursuant to the provisions of Chapter 1-16G of the South Dakota Codified Laws and subject to
23 your consent, I have the honor to inform you that I have reappointed Matt Judson, of Hughes
24 County, Pierre, South Dakota, to the Board of Economic Development.

25 This reappointment is effective April 28, 2022, and shall continue until April 14, 2026.

26 Sincerely,
27 Kristi Noem
28 Governor

29 The President announced the referral of the reappointment to the Committee on Commerce
30 and Energy.

1 April 29, 2022

2 The Honorable Larry Rhoden
3 President of the Senate
4 State Capitol
5 Pierre, SD 57501

6 Dear President and Members of the Senate:

7 Pursuant to the provisions of Chapter 40-18 of the South Dakota Codified Laws and subject to
8 your consent, I have the honor to inform you that I have appointed Lyle Spring, of Meade County,
9 Union Center, South Dakota, to the State Brand Board.

10 This appointment is effective April 29, 2022, and shall continue until January 3, 2025.

11 Sincerely,
12 Kristi Noem
13 Governor

14 The President announced the referral of the appointment to the Committee on Agriculture and
15 Natural Resources.

16 May 12, 2022

17 The Honorable Larry Rhoden
18 President of the Senate
19 State Capitol
20 Pierre, SD 57501

21 Dear President and Members of the Senate:

22 Pursuant to the provisions of Chapter 40-18 of the South Dakota Codified Laws and subject to
23 your consent, I have the honor to inform you that I have appointed Haven Stuck, of Pennington
24 County, Rapid City, South Dakota, to the State Brand Board.

25 This appointment is effective April 28, 2022, and shall continue until January 3, 2025.

26 Sincerely,
27 Kristi Noem
28 Governor

29 The President announced the referral of the appointment to the Committee on Agriculture and
30 Natural Resources.

1 September 9, 2022

2 The Honorable Larry Rhoden
3 President of the Senate
4 State Capitol
5 Pierre, SD 57501

6 Dear President and Members of the Senate:

7 Pursuant to the provisions of Chapter 13-49 of the South Dakota Codified Laws and subject to
8 your consent, I have the honor to inform you that I have reappointed Pam Roberts, of Hughes
9 County, Pierre, South Dakota, to the State Board of Regents.

10 This reappointment is effective April 28, 2022, and shall continue until March 31, 2028.

11 Sincerely,
12 Kristi Noem
13 Governor

14 The President announced the referral of the reappointment to the Committee on Education.

15 April 29, 2022

16 The Honorable Larry Rhoden
17 President of the Senate
18 State Capitol
19 Pierre, SD 57501

20 Dear President and Members of the Senate:

21 Pursuant to the provisions of Chapter 1-45 of the South Dakota Codified Laws and subject to
22 your consent, I have the honor to inform you that I have appointed Kamp "Rich" Meyer, of
23 Pennington County, Rapid City, South Dakota, to the South Dakota Board of Education Standards.

24 This appointment is effective April 29, 2022, and shall continue until December 31, 2025.

25 Sincerely,
26 Kristi Noem
27 Governor

28 The President announced the referral of the appointment to the Committee on Education.

29 **REPORTS OF STANDING COMMITTEES**

30 Mr. President:

31 The Committee on Senate Education respectfully reports that it has had under consideration
32 **SB 100** which was deferred to the 41st Legislative Day.

1 Also Mr. President:

2 The Committee on Senate Education respectfully reports that it has had under consideration
3 **SB 118** and returns the same with the recommendation that said bill do pass.

4 Also Mr. President:

5 The Committee on Senate Education respectfully reports that it has had under consideration
6 **SB 182** and returns the same with the recommendation that said bill do pass, and having been
7 certified as uncontested, be placed on the consent calendar.

8 Respectfully submitted,
9 Kyle Schoenfish, Chair

10 Mr. President:

11 The Committee on Senate Judiciary respectfully reports that it has had under consideration
12 **SB 91** and returns the same with the recommendation that said bill be amended as follows:

13 91A

14 On page 1, line 17, of the Introduced bill, after "consent" insert " and the perpetrator knows
15 or reasonably should know the victim is not consenting"

16 And that as so amended, **SB 91** do pass.

17 Also Mr. President:

18 The Committee on Senate Judiciary respectfully reports that it has had under consideration
19 **SB 90 and 146** and returns the same with the recommendation that said bills do pass.

20 Respectfully submitted,
21 Helene Duhamel, Chair

22 Mr. President:

23 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
24 had under consideration **SB 126** which was deferred to the 41st Legislative Day.

25 Also Mr. President:

26 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
27 had under consideration **SB 142** and returns the same with the recommendation that said bill be
28 amended as follows:

29 142A

30 On page 1, line 7, of the Introduced bill, after "technician." insert "

31 A veterinarian may not advertise or otherwise represent an employee as a veterinary technician
32 unless the employee is registered by the State Board of Veterinary Medical Examiners as a veterinary
33 technician."

34 And that as so amended, **SB 142** do pass.

1 Also Mr. President:

2 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
3 had under consideration **SB 143** and returns the same with the recommendation that said bill do
4 pass, and having been certified as uncontested, be placed on the consent calendar.

5 Also Mr. President:

6 The Committee on Senate Agriculture and Natural Resources respectfully reports that it has
7 had under consideration **SB 195** and returns the same with the recommendation that said bill do
8 pass.

9
10 Respectfully submitted,
Herman Otten, Chair

11 Mr. President:

12 The Committee on Senate Commerce and Energy respectfully reports that it has had under
13 consideration **HB 1091** and returns the same with the recommendation that said bill do pass.

14 Also Mr. President:

15 The Committee on Senate Commerce and Energy respectfully reports that it has had under
16 consideration **SB 76** and returns the same with the recommendation that said bill do pass, and
17 having been certified as uncontested, be placed on the consent calendar.

18 Also Mr. President:

19 The Committee on Senate Commerce and Energy respectfully reports that it has had under
20 consideration **SB 178** which was deferred to the 41st Legislative Day.

21
22 Respectfully submitted,
David Wheeler, Chair

23 Mr. President:

24 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing and
25 Enrolling has carefully compared **SB 9, 10, 11, 12, 13, 14, 15, and 37** and finds the same correctly
26 enrolled.

27
28 Respectfully submitted,
Lee A. Schoenbeck, Chair

29 Mr. President:

30 The Committee on Legislative Procedure respectfully reports that **SB 7, 28, and 58** were
31 delivered to her Excellency, the Governor, for her approval at 1:40 p.m., February 7, 2023.

32
33 Respectfully submitted,
Lee A. Schoenbeck, Chair

1

MESSAGES FROM THE HOUSE

2 Mr. President:

3 I have the honor to return herewith **SB 12, 13, 14, and 37** which have passed the House
4 without change.

5 Also Mr. President:

6 I have the honor to transmit herewith **HB 1106, 1124, 1140, 1174, 1175, and 1191** which
7 have passed the House and your favorable consideration is respectfully requested.

8

9

Respectfully,
Patricia Miller, Chief Clerk

10

MOTIONS AND RESOLUTIONS11 Sen. Diedrich moved that **SB 162** be deferred to Wednesday, February 8, 2023, the 20th
12 legislative day.

13 Which motion prevailed.

14

CONSIDERATION OF REPORTS OF COMMITTEES

15 Sen. Crabtree moved that the report of the Standing Committee on

16 Local Government on **SB 155** as found on page 196 of the Senate Journal be adopted.

17 Which motion prevailed and the report was adopted.

18

FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS19 **HB 1191:** FOR AN ACT ENTITLED, An Act to clarify the duties of truancy officers.

20 Was read the first time and referred to the Committee on Education.

21 **HB 1174:** FOR AN ACT ENTITLED, An Act to revise civil commitment procedures for offenders
22 with developmental disabilities.

23 Was read the first time and referred to the Committee on Health and Human Services.

24 **HB 1106:** FOR AN ACT ENTITLED, An Act to revise certain provisions regarding voter
25 registration records.26 **HB 1124:** FOR AN ACT ENTITLED, An Act to modify provisions pertaining to the testing of
27 automatic tabulating equipment.

1 **HB 1140:** FOR AN ACT ENTITLED, An Act to require the secretary of state to determine if a
2 legislatively proposed constitutional amendment complies with the single subject requirement and
3 is not a constitutional revision.

4 **HB 1175:** FOR AN ACT ENTITLED, An Act to update references to the Governor, lieutenant
5 governor, and other persons.

6 Were read the first time and referred to the Committee on State Affairs.

7 **SECOND READING OF CONSENT CALENDAR ITEMS**

8 Sen. Crabtree requested that **SB 140** be removed from the Consent Calendar.

9 **SB 141:** FOR AN ACT ENTITLED, An Act to clarify and modernize cremation requirements and
10 procedures.

11 **SB 204:** FOR AN ACT ENTITLED, An Act to expand critical incident stress management to
12 health care facility personnel providing emergency services.

13 Were read the second time.

14 The question being "Shall **SB 141** pass as amended, and **SB 204** pass?"

15 And the roll being called:

16 Yeas 35, Nays 0, Excused 0, Absent 0

17 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,
18 Duhamel, Foster, Frye-Mueller, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck,
19 Steve Kolbeck, Larson, Maher, Mehlhaff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl,
20 Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

21 So the bills having received an affirmative vote of a majority of the members-elect, the
22 President declared the bills passed and the titles were agreed to.

23 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

24 **SB 34:** FOR AN ACT ENTITLED, An Act to authorize the sale of real property in Lake County
25 by the Board of Regents, and to declare an emergency.

26 Was read the second time.

27 The question being "Shall **SB 34** pass?"

28 And the roll being called:

29 Yeas 35, Nays 0, Excused 0, Absent 0

30 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,
31 Duhamel, Foster, Frye-Mueller, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck,
32 Steve Kolbeck, Larson, Maher, Mehlhaff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl,
33 Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

1 So the bill having received an affirmative vote of a two-thirds majority of the members-elect,
2 the President declared the bill passed and the title was agreed to.

3 **SB 93:** FOR AN ACT ENTITLED, An Act to provide an increased appropriation for the
4 construction costs of an athletics events center at Dakota State University, and to declare an
5 emergency.

6 Was read the second time.

7 The question being "Shall **SB 93** pass?"

8 And the roll being called:

9 Yeas 34, Nays 1, Excused 0, Absent 0

10 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,
11 Duhamel, Foster, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck, Steve
12 Kolbeck, Larson, Maher, Mehlhaff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl,
13 Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

14 Nays: Frye-Mueller

15 So the bill having received an affirmative vote of a two-thirds majority of the members-elect,
16 the President declared the bill passed and the title was agreed to.

17 **SB 198:** FOR AN ACT ENTITLED, An Act to allow medical cannabis establishments to maintain
18 certain cardholder data and to declare an emergency.

19 Was read the second time.

20 Sen. Novstrup moved that **SB 198** be amended as follows:

21 198B

22 On page 1, line 10, of the Introduced bill, delete " any specific purpose or for all purposes" and
23 insert " the limited purpose of receiving direct communication regarding the cardholder's:

24 (1) Individual medical needs; or

25 (2) Use of a specific product"

26 Sen. Davis requested a roll call vote.

27 Which request was supported.

28 The question being on Sen. Novstrup's motion that **SB 198** be amended.

29 And the roll being called:

30 Yeas 20, Nays 15, Excused 0, Absent 0

31 Yeas: Beal, Bolin, Breitling, Castleberry, Diedrich, Duhamel, Frye-Mueller, Brent "B.R."
32 Hoffman, Klumb, Jack Kolbeck, Steve Kolbeck, Maher, Mehlhaff, Novstrup, Herman Otten, Pischke,
33 Schoenbeck, Stalzer, Wiik, and Wink

1 Nays: Bordeaux, Crabtree, Davis, Deibert, Foster, Hunhoff, David Johnson, Larson, Nesiba,
2 Reed, Rohl, Schoenfish, Tobin, Wheeler, and Zikmund

3 So the motion having received an affirmative vote of a majority of the members-elect, the
4 President declared the motion prevailed.

5 The question being "Shall **SB 198** pass as amended?"

6 And the roll being called:

7 Yeas 35, Nays 0, Excused 0, Absent 0

8 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,
9 Duhamel, Foster, Frye-Mueller, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck,
10 Steve Kolbeck, Larson, Maher, Mehlhaff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl,
11 Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

12 So the bill having received an affirmative vote of a two-thirds majority of the members-elect,
13 the President declared the bill passed and the title was agreed to.

14 **SB 5:** FOR AN ACT ENTITLED, An Act to extend the termination date of the Juvenile Justice
15 Oversight Council and modify its membership requirements.

16 Was read the second time.

17 Sen. Schoenbeck moved that **SB 5** be amended as follows:

18 5B

19 On page 3, line 9, of the Senate Judiciary Engrossed bill, delete "members" and insert
20 "Senators"

21 On page 3, line 12, of the Senate Judiciary Engrossed bill, delete "A" and insert "One other"

22 On page 3, line 12, of the Senate Judiciary Engrossed bill, after "Senate" delete " that is from
23 a different political party than the other member appointed"

24 On page 3, line 15, of the Senate Judiciary Engrossed bill, delete "members" and insert
25 "Representatives"

26 On page 3, line 18, of the Senate Judiciary Engrossed bill, delete "A" and insert "One other"

27 On page 3, line 19, of the Senate Judiciary Engrossed bill, after "Representatives" delete " that
28 is from a different political party than the other appointed member"

29 Which motion prevailed.

30 The question being "Shall **SB 5** pass as amended?"

31 And the roll being called:

32 Yeas 32, Nays 3, Excused 0, Absent 0

1 Yeas: Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel,
2 Foster, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Larson,
3 Maher, Mehlhaff, Nesiba, Novstrup, Herman Otten, Reed, Rohl, Schoenbeck, Schoenfish, Stalzer,
4 Tobin, Wheeler, Wiik, Wink, and Zikmund

5 Nays: Beal, Frye-Mueller, and Pischke

6 So the bill having received an affirmative vote of a majority of the members-elect, the President
7 declared the bill passed and the title was agreed to.

8 **SB 86:** FOR AN ACT ENTITLED, An Act to require candidates for a party precinct committee to
9 include an email address and phone number in the written statement submitted to the county
10 auditor.

11 Was read the second time.

12 Sen. Stalzer moved that **SB 86** be amended as follows:

13 86C

14 On page 1, line 17, of the Senate Local Government Engrossed bill, after "will" delete " qualify
15 and"

16 Which motion prevailed.

17 The question being "Shall **SB 86** pass as amended?"

18 And the roll being called:

19 Yeas 35, Nays 0, Excused 0, Absent 0

20 Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich,
21 Duhamel, Foster, Frye-Mueller, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck,
22 Steve Kolbeck, Larson, Maher, Mehlhaff, Nesiba, Novstrup, Herman Otten, Pischke, Reed, Rohl,
23 Schoenbeck, Schoenfish, Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

24 So the bill having received an affirmative vote of a majority of the members-elect, the President
25 declared the bill passed.

26 The question being on the title.

27 Sen. Stalzer moved that the title to **SB 86** be amended as follows:

28 86B

29 On page 1, line 1, of the Senate Local Government Engrossed bill, after "for" delete " a"

30 On page 1, line 1, of the Senate Local Government Engrossed bill, delete " committee" and
31 insert " committeeman or committeewoman"

32 Which motion prevailed and the title was so amended.

1

SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS

2

3

HB 1060: FOR AN ACT ENTITLED, An Act to modify provisions related to procurement for the state and other purchasing agencies.

4

Was read the second time.

5

The question being "Shall **HB 1060** pass as amended?"

6

And the roll being called:

7

Yeas 31, Nays 4, Excused 0, Absent 0

8

9

10

11

Yeas: Beal, Bolin, Bordeaux, Breitling, Castleberry, Crabtree, Davis, Deibert, Diedrich, Duhamel, Foster, Brent "B.R." Hoffman, Hunhoff, David Johnson, Klumb, Jack Kolbeck, Steve Kolbeck, Larson, Maher, Mehlhaff, Nesiba, Novstrup, Reed, Rohl, Schoenbeck, Stalzer, Tobin, Wheeler, Wiik, Wink, and Zikmund

12

Nays: Frye-Mueller, Herman Otten, Pischke, and Schoenfish

13

14

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

15

16

The President declared that **SJR 503** was withdrawn at the request of the prime sponsor pursuant to JR 6B-1.1.

17

18

Sen. Tobin moved that the Senate do now adjourn, which motion prevailed and at 3:05 p.m. the Senate adjourned.

19

Kay Johnson, Secretary

